

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Securities and Exchange Commission,

Case No.: 2:22-cv-00715-JAD-BNW

Plaintiff

**Order Adopting Report &
Recommendation to Enter Default Against
Defendant Derek Slattery**

v.

Derek J. Slattery, et al.,

[ECF Nos. 29, 31]

Defendants

The Securities and Exchange Commission (SEC) brings this action against Derek J. Slattery and his company TradeSmart Software RIC Corporation, alleging that they defrauded investors out of more than a million dollars in violation of the federal securities laws.¹ On the SEC’s motion, default was entered against TradeSmart in July,² but I declined its request to enter default against Slattery at that time because he “arguably attempted to file an answer.”³ Because that filing did not comply with the rules of this court, I ordered Slattery to file a proper answer by August 8, 2022, warning him that, “if he fail[ed] to do so, the SEC may renew its motion for default against him.”⁴

Slattery did not file a proper answer—or anything else. And because his mail from this court was being returned as undeliverable,⁵ the magistrate judge issued an order directing Slattery to “file a notice with his current address with the [c]ourt by August 15, 2022,” warning that “[f]ailure to comply with this [o]rder may result in a recommendation to the district judge

¹ ECF No. 1.

² ECF No. 25.

³ ECF No. 24 at 2.

⁴ *Id.* at 4.

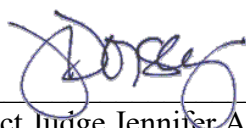
⁵ *See, e.g.*, ECF Nos. 22, 28, 30, 34.

1 that a default be entered” against him.⁶ That deadline expired with no response from Slattery, so
 2 the magistrate judge now recommends that I enter default against him.⁷ The deadline for
 3 Slattery to object to that report and recommendation passed on September 27, 2022, with neither
 4 an objection nor a request to extend the deadline to file one. The SEC has also renewed its
 5 motion to enter a default against Slattery, noting that, despite his returned mail, he has been
 6 receiving copies of the filings in this case by email, so “Slattery is well aware of this lawsuit and
 7 has sent SEC counsel numerous emails regarding this matter since it was filed.”⁸

8 “[N]o review is required of a magistrate judge’s report and recommendation unless
 9 objections are filed.”⁹ Having reviewed the report and recommendation, I find good cause to
 10 adopt it, and I do. Slattery’s failure to file a proper answer despite having been served with this
 11 action provides a second, independent basis to enter default against him.

12 IT IS THEREFORE ORDERED that the magistrate judge’s report and recommendation
 13 **[ECF No. 31] is ADOPTED in its entirety**, and the Clerk of Court is directed to **ENTER**
 14 **DEFAULT against Derek J. Slattery.**

15 IT IS FURTHER ORDERED that the SEC’s Second Request for Clerk’s Entry of Default
 16 as to Derek J. Slattery **[ECF No. 29] is DENIED as moot.**

17 
 18 U.S. District Judge Jennifer A. Dorsey
 19 October 4, 2022

20 ⁶ ECF No. 27.

21 ⁷ ECF No. 31.

22 ⁸ ECF No. 29 at 2.

23 ⁹ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).